

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Matti PUPUTTI	Confirmation No.: 9503
Application No.: 09/989,301	Group Art Unit: 2421
Filed: November 19, 2001	Examiner: Sumaiya A Chowdhury

For: METHOD AND APPARATUS FOR DYNAMIC PROVISIONING OF IP-BASED SERVICES IN A DVB NETWORK

Commissioner for Patents
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants respectfully request a pre-appeal brief review be made of the present application for at least the following clear errors.

I. SUMMARY

The claimed invention is directed to dynamically providing one or more IP-based services over a digital video broadcasting (DVB) network using a computer network or a wireless network. A service having a control channel, such as an Internet Protocol control channel, is transmitted over a first transport stream to one or more end user terminals in accordance with a first configuration parameter of the service, as maintained by the end user terminals. The first configuration parameter identifies the control channel with the first transport stream. The network then generates and/or transmits a second configuration parameter to the end user without receiving interactive information from the end user terminal. The second configuration parameter may include addressing and interface information and a program identifier that identifies the

control channel with either a second transport stream or a second portion of the first transport stream. The network then may transmit the service to the end user terminals over the second transport stream. The second transport stream may be selected based on a data size of the service and an available bandwidth of the first and second transport streams.

II. ISSUE

Whether claims 57-76 are obvious under 35 U.S.C. § 103 based on *Kessler* (US 6,741,288) in view of *Levitan* (US 2002/0147769)?

III. ARGUMENT

The claims are not obvious over the combination of *Kessler* and *Levitan*.

Independent claims 57 and 67 recite, *inter alia*, “transmitting [or transmit] **a network information table**, wherein the network information table contains **a linkage to a control channel...the control channel contains access information corresponding to one or more internet protocol based services.**” Independent claims 62 and 72 recite, *inter alia*, “receiving [or receive] **a network information table**, wherein the network information table contains **a linkage to a control channel...the control channel contains access information corresponding to one or more internet protocol based services.**”

The emphasized portions of the claim language are not disclosed or suggested by the applied references. *Kessler*, the primary reference, discloses a program and specific information protocol (SPIP) format for enabling **terrestrial broadcast and cable broadcast streams** to be appended with extended sets of data carried in one or more tables (master guide table, virtual channel table, event information table, extended text table, system timetable, and a rating region

table (col. 1, lines 41-46; col. 5, lines 37-46). As clearly understood by skilled artisans, these PSIP tables disclosed in *Kessler* provide information about **terrestrial broadcast and cable broadcast streams**. This is in stark contrast to the claimed network information table (NIT), which includes tuning information for accessing internet protocol based services, rather than broadcast services with which *Kessler* is concerned. *Kessler* is devoid of any teaching or suggestion of internet protocol based services, which is not surprising, given that the PSIP format of *Kessler* is utilized for terrestrial broadcast and cable broadcast streams, not internet protocol based services.

The Examiner points to col. 4, lines 5-6, and col. 3, lines 32-42, of *Kessler* to show that a receiver may be connected to an internet network. The Examiner asserts that from this disclosure, “it may be inferred that internet protocol based services are supported and provided by *Kessler*’s system.” Applicant disagrees.

The mere fact that the DTV control module 18 in Fig. 1 of *Kessler* may optionally be connected to the internet network does not, in any way, teach or suggest that *Kessler*’s system is concerned with accessing internet protocol based services. As disclosed in *Kessler*, from col. 1, line 43 through col. 2, line 6, the control module 18 may issue commands, such as a PID, to select a desired program, it may be connected to a RAM 26 or a program memory 30 to receive instructions for tasks to be executed by the control module 18, or it may be connected to a user command module 36 for receiving commands from a user regarding selection and display of desired programs. Thus, when *Kessler* then recites that the control module 18 “may also be connected to a network such as the Internet,” after the recitation of other connections for the purpose of receiving commands from various devices, the only reasonable assumption is that the Internet is an alternative way for the command module 18 to receive commands, such as to select

a desired program. However, there is absolutely no suggestion that the connection to the Internet is for the purpose of **accessing internet protocol based services**, as opposed to the terrestrial broadcast and cable broadcast streams.

The Examiner recognizes that *Kessler* does not explicitly teach accessing internet protocol based services, relying on *Levitan* for such a teaching. However, *Levitan*, at best, merely teaches that internet protocol based services, *per se*, were known (a fact which Applicant does not deny). There is no evidence of record that would have led the skilled artisan to modify *Kessler* in any manner to provide access to such internet protocol based services, especially in view of the fact that *Kessler* discloses only **terrestrial broadcast and cable broadcast streams**. Accordingly, nothing would have suggested to the artisan modifying *Kessler* to provide for **accessing internet protocol based services**, let alone providing such services in the manner claims, *viz.*, with a network information table containing “**a linkage to a control channel...the control channel contains access information corresponding to one or more internet protocol based services.**” The teachings of *Levitan* are not germane to the **terrestrial broadcast and cable broadcast streams** of *Kessler* and, therefore, the combination of *Kessler* and *Levitan* is improper, such combination being made only through the exercise of impermissible hindsight.

Moreover, the claimed feature of a “linkage to a control channel” is not taught by the applied references. The linkage disclosed by *Kessler*, the reference allegedly disclosing the claimed feature, only enables control module 18 to acquire control structure 46 from memory 26 to enable demultiplexer 16 to receive the desired broadcast program, while ignoring other received programs. Such a teaching has no relevance to “a linkage to a control channel...the control channel contains access information corresponding to one or more internet protocol based services,” as claimed. Not only are the linkages in *Kessler* different from those claimed, but the

linkage in *Kessler* provides for a filtering function in ignoring those programs not selected, while the instant claims provide for “access information” corresponding to IP based services.

IV. CONCLUSION

For the foregoing reasons, the Appeal Brief Panel is respectfully requested to withdraw the rejection of the present application in light of these clear errors and allow the pending claims.

Respectfully Submitted,

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Date

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